

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09-CR-99 CAS
)	
SHAWN SMEDLEY,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant Shawn Smedley's Motion to Extend the Time in Which to File Defendant's Notice of Appeal. The motion will be denied as moot, as defendant's Notice of Appeal was timely filed.

Following a plea of guilty, defendant was sentenced on October 1, 2009 to a term of 60 months incarceration, to be followed by 45 years of supervised release. The Judgment was entered on the criminal docket on October 6, 2009. See Fed. R. App. P. 4(b)(6). Smedley's motion and Notice of Appeal were filed on October 13, 2009.

The procedure for filing a notice of appeal by a defendant in a criminal case is governed by Federal Rule of Appellate Procedure 4(b), which states in pertinent part:

(1) Time for Filing a Notice of Appeal

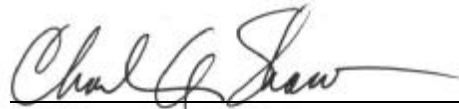
- (A) In a criminal case, a defendant's notice of appeal must be filed in the district court within 10 days after the later of:
- (i) the entry of either the judgment or the order being appealed; or
 - (ii) the filing of the government's notice of appeal.

Fed. R. App. P. 4(b)(1).¹

Under Federal Rule of Appellate Procedure 4(b)(6), “A judgment or order is entered for purposes of this Rule 4(b) when it is entered on the criminal docket.” Because the judgment was entered on October 6, 2009, the defendant’s appeal deadline began to run on October 7, 2009. The Notice of Appeal was filed on October 13, 2009, and is therefore timely.

Accordingly,

IT IS HEREBY ORDERED that defendant Shawn Smedley’s Motion to Extend the Time in Which to File Defendant’s Notice of Appeal is **DENIED** as moot. [Doc. 53]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 14th day of October, 2009.

¹The 10-day appeal period excludes intermediate Saturdays, Sundays, and legal holidays. See Fed. R. App. P. 26(a).